

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

GARY LEE POISEL, JR., # 306176,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 3:17cv586-WKW
)	(WO)
DEWAYNE ESTES, <i>et al.</i> ,)	
)	
Respondents.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

On September 5, 2017 (Doc. 2), this court entered an order directing that by September 19, 2017, Petitioner either submit the \$5.00 filing fee or file the appropriate affidavit in support of a motion for leave to proceed *in forma pauperis* (“IFP”) in this habeas corpus action under 28 U.S.C. § 2254. Petitioner was specifically cautioned that his failure to comply with the court’s order would result in a recommendation that this case be dismissed. Doc. at 2.

The requisite time passed without Petitioner submitting the filing fee or filing an affidavit in support of a motion for leave to proceed IFP.

On October 3, 2017 (Doc. 3), this court entered an order noting that Petitioner had not complied with its September 5, 2017 order and directing that by October 13, 2017, Petitioner either submit the \$5.00 filing fee or file an affidavit in support of a motion for leave to proceed IFP. Petitioner was again cautioned that his failure to comply with the court’s orders would result in a recommendation that his case be dismissed. Doc. 3 at 2.

Once again, the requisite time has passed without Petitioner submitting the filing fee or filing an affidavit in support of a motion for leave to proceed IFP in compliance with this court's orders. Consequently, the court concludes that dismissal is appropriate for Petitioner's failure to comply with the court's orders.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Petitioner's failure to comply with the orders of this court.

It is further

ORDERED It is further ORDERED that the parties shall file any objections to this Recommendation on or before November 13, 2017. Any objections filed must specifically identify the factual findings and legal conclusions in the Magistrate Judge's Recommendation to which the parties object. Frivolous, conclusive or general objections will not be considered by the District Court. Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge's report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall "waive the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions" except upon grounds of plain error if necessary in the interests of justice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE, this 27th day of October, 2017.

/s/ Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE